

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.14789 of 2018

P.Arthanari

...Petitioner

Vs.

- 1.The District Collector,
Dharmapuri, Dharmapuri District.
- 2.The Executive Engineer,
Public Works Department,
Dharmapuri District.
- 3.The Assistant Engineer,
Public Works Department,
Water Resources Management,
Pennagaram, Dharmapuri District.
- 4.The Tahsildar,
Pennagaram Taluk,
Dharmapuri District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation letter to the respondents dated on 29.05.2018.

For Petitioner : Mr.M.Senthamizh Selvan
For Respondents : Ms.Lalitha
Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Ms.Lalitha, learned Additional Government Pleader accepts notice on behalf of respondents 1 to 4.

2. The petitioner claims that he is the owner of 45 cents of land in Arakasanahalli Village, S.No.195/1C3 and according to her, in the eastern side of the land, a river course poromboke lands are comprised in S.Nos.178 and 185 and similarly one Vijaya is also in possession of the lands in S.No.202. The petitioner would further claim that he is carrying on agricultural operation in the lands owned by him.

3. It is further averred by the petitioner that one N.Ganesan had filed W.P.No.34014 of 2017 against the respondents herein as well as against one Vijaya praying for issuance of writ of mandamus directing the 1st respondent herein to consider and dispose of his representation dated 30.10.2017 with regard to the removal of encroachment and this Court vide

order dated 24.01.2018 has directed respondents 1 to 4 to remove the encroachment in question in the river bed within 30 days from the date of receipt of copy of that order and also granted liberty to the said officials to avail police assistance, if necessary.

4. The 5th respondent in W.P.No.34014/2017 also filed W.P.No.9422/2018 to quash the proceedings of the 3rd respondent herein dated 15.03.2018, with regard to the removal of encroachment on the water body. This Court vide order dated 17.04.2018, has disposed of the writ petition by granting liberty to the petitioner therein to submit his response, with a further direction to the respondents therein to consider and dispose of the same in accordance with law and till such disposal of the representation, the respondents shall defer further decision in terms of the impugned proceedings.

5. The grievance expressed by the petitioner is that without affording any reasonable opportunity, whatsoever and without any notice, steps are being taken to dispossess him from the lands in question. In this regard, he has submitted a representation dated 29.05.2018 to the 1st respondent with copies marked to respondents 2 to 4 and no response is forthcoming and hence he came forward to file this writ petition.

6. Ms.Lalitha, learned Additional Government Pleader would submit that since the petitioner has encroached upon the water course, action will be taken in accordance with law.

7. This Court has considered the rival submissions and also perused the materials placed before it.

8. This Court taking into consideration of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petitioner directs the 3rd respondent to follow the due process of law under the provisions of Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the rules framed thereunder and initiate appropriate action and conclude the same within a period of ten weeks from the date of receipt of copy of this order and communicate the decision taken to the petitioner as well as to the concerned persons if any / encroachers and till such time, the decision as to the removal of alleged encroachments on the part of the petitioner shall be deferred. The petitioner till the disposal of the writ petition shall not create any third party right in respect of the site and superstructure in question and shall not alter the physical features also.

9. With the above direction, the writ petition stands disposed of. No costs.

{M.S.N.J} {G.K.I.J}

21.06.2018

Index : No
Internet: Yes
Speaking Order

sk

To

- 1.The District Collector,
Dharmapuri, Dharmapuri District.
- 2.The Executive Engineer,
Public Works Department,
Dharmapuri District.
- 3.The Assistant Engineer,
Public Works Department,
Water Resources Management,
Pennagaram, Dharmapuri District.

WEB COPY

M.SATHYANARAYANAN, J.
AND
G.K.ILANTHIRAIYAN, J.
sk



WP.No.14789 of 2018

WEB COPY

21.06.2018